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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/518,704	12/17/2004	Tetsuo Yamada	930055-2031	5674
7590 Ronald R Santucci Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151		03/01/2007	EXAMINER BUDD, MARK OSBORNE	
			ART UNIT 2834	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/01/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/518,704	YAMADA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mark Budd	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 January 2007.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 and 25-74 is/are pending in the application.
- 4a) Of the above claim(s) 46 and 47 is/are withdrawn from consideration.
- 5) Claim(s) 1-19, 37-45 and 48-74 is/are allowed.
- 6) Claim(s) 19-23 and 25-36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                             |                                                                   |
|-------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|                                                                                                             | 6) <input type="checkbox"/> Other: _____.                         |

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20, 21, 23, 25, and 30 are rejected under 35 USC 103 (a) as being unpatentable over Shibata if you of Yamada. Shibata (figure 4) teaches a thin film piezoelectric resonator #18, top and bottom electrodes, #16, a diaphragm #14 which can be an insulating layer (e.g. silicon dioxide), and a substrate #12 having a cavity. The angle of the cavity walls in relation the substrate's major surface is 90°. The specific electrode configurations of claim 21 are shown in figures 33-35 of Shibata. Shibata does not explicitly teach a ratio between the piezoelectric thickness and the insulating layer thickness. However, Shibata teaches that these are result based variables (see figure 36). Since optimization of it now device, for example through routine experimentation, has long been held to be with in the skill expected of the routineer, selection of specific ratios for any particular application would have been obvious to one of ordinary skill in the art. It is also noted that Shibata does not teach that the lower electrode is it here directly to the diaphragm (insulating layer). Berenstain (figure 5) teaches it is advantageous to place an additional layer #74 between the silicon diaphragm #76 and the lower electrode #80 in order to approve the characteristics of a resonator. Thus, for at least this reason it would have been obvious to one of ordinary skill and the art to place such a layer between the diaphragm and the lower electrode of Shibata.

Clayton 22 is rejected under 35 USC (a) as being unpatentable over Shibata in view of Bernstein as stated above, and further in view of Yamada. This claim adds that the piezoelectric element is provided as two separate layers. This construction is shown by Yamada (note figure 1 v figure 2) such a substitution provides a lower impedance for the device. Thus for at least this reason it would have been obvious to one of ordinary skill in the art to provide multiple layers of piezoelectric elements in Shibata.

Claims 27-29 are rejected under 35 USC 103 (a) as being unpatentable over Shibata and view of Berenstain as set forth in regard to claim 20, and further in view of Larsen for the explicit reasons noted in the previous office action (10-26-06)

Claims 31-36 are rejected under 35 USC 103 (a) as being unpatentable over Shibata for the explicit reasons set forth in the previous office action (10-26-06).

Claims 1-19, 37-45 and 48-74 are allowed.

Claims 46 and 47 are withdrawn from further consideration. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Budd whose telephone number is 571-272-2019. The examiner can normally be reached on Monday-Thursday from 6 a.m. to 4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg, can be reached on 571-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Budd  
Primary Examiner  
Art Unit 2834